

109TH CONGRESS
1ST SESSION

H. R. 2351

To provide for the safety and security of United States railroads, passengers, workers, and communities, and to establish an assistance program for families of passengers involved in rail accidents.

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 2005

Mr. OBERSTAR (for himself, Ms. CORRINE BROWN of Florida, Mr. CUMMINGS, Mr. BLUMENAUER, Mr. MENENDEZ, Mr. NADLER, Ms. NORTON, Mr. BISHOP of New York, Ms. MILLENDER-MCDONALD, Mr. WEINER, Mr. HOLDEN, Mr. CAPUANO, Mr. RAHALL, and Ms. CARSON) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the safety and security of United States railroads, passengers, workers, and communities, and to establish an assistance program for families of passengers involved in rail accidents.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Rail Security Act of
5 2005”.

1 **TITLE I—RAILROAD SECURITY**

2 **SEC. 101. RAILROAD TRANSPORTATION SECURITY.**

3 (a) IN GENERAL.—

4 (1) REQUIREMENTS.—The Secretary shall de-
5 velop, prepare, implement, and update—

6 (A) a railroad security assessment under
7 subsection (b)(1);

8 (B) a railroad security plan under sub-
9 section (b)(2);

10 (C) prioritized recommendations for im-
11 proving railroad security under subsection (d);

12 (D) guidance for the rail worker security
13 training program as authorized by section 104;
14 and

15 (E) a national plan for public outreach and
16 awareness for improving railroad security as
17 authorized by section 107.

18 (2) ROLE OF SECRETARY OF TRANSPOR-
19 TATION.—The Secretary shall work jointly with the
20 Secretary of Transportation, in developing, pre-
21 paring, revising, implementing, and updating the
22 documents required by paragraph (1).

23 (3) MEMORANDUM OF AGREEMENT.—Within 60
24 days after the date of enactment of this Act, the
25 Secretary and the Secretary of Transportation shall

1 execute a memorandum of agreement governing the
2 roles and responsibilities of the Department of
3 Homeland Security and the Department of Trans-
4 portation, respectively, in addressing railroad trans-
5 portation security matters, including the processes
6 the departments will follow to carry out this title
7 and promote communications, efficiency, and non-
8 duplication of effort.

9 (b) SECURITY ASSESSMENT.—

10 (1) IN GENERAL.—Not later than 180 days
11 after the date of enactment of this Act, the Sec-
12 retary shall complete the security assessment of rail-
13 road transportation required under subsection
14 (a)(1). The security assessment shall include—

15 (A) identification and evaluation of critical
16 railroad assets and infrastructures;

17 (B) identification of threats to those assets
18 and infrastructures;

19 (C) identification of vulnerabilities that are
20 specific to the transportation of hazardous ma-
21 terials by railroad;

22 (D) identification of redundant and backup
23 systems required to ensure the continued oper-
24 ation of critical elements of the railroad system
25 in the event of an attack or other incident, in-

cluding disruption of commercial electric power
or communications networks; and

(E) identification of security weaknesses in
passenger and cargo security, transportation in-
frastructure, protection systems (including pas-
senger and cargo screening), procedural poli-
cies, communications systems, employee train-
ing, emergency response planning, and any
other area identified by the assessment.

(2) SECURITY PLAN.—The Secretary shall use
the security assessment completed under paragraph
(1) to develop a transportation modal security plan
under section 114(t)(1)(B) of title 49, United States
Code, for the security of the Nation’s railroads. The
plan shall—

(A) establish a strategy for minimizing ter-
rorist threats to railroad transportation sys-
tems;

(B) establish a strategy for maximizing the
efforts of railroads to mitigate damage from
terrorist attacks;

(C) require the Federal Government to
provide increased security support at high or
severe threat levels of alert;

1 (D) set forth procedures for establishing
2 and maintaining permanent and comprehensive
3 consultative relations among the parties de-
4 scribed in subsection (c);

5 (E) include a contingency plan to ensure
6 the continued movement of freight and pas-
7 sengers in the event of an attack affecting the
8 railroad system, which shall contemplate—

9 (i) the possibility of rerouting traffic
10 due to the loss of critical infrastructure,
11 such as a bridge, tunnel, yard, or station;
12 and

13 (ii) methods of continuing railroad
14 service in the Northeast Corridor in the
15 event of a commercial power loss, or catas-
16 trophe affecting a critical bridge, tunnel,
17 yard, or station; and

18 (F) account for actions taken or planned
19 by both public and private entities to address
20 security issues identified under paragraph (1)
21 and assess the effective integration of such ac-
22 tions.

23 (c) CONSULTATION.—In developing the plan under
24 subsection (b)(2) and the recommendations under sub-
25 section (d), the Secretary and the Secretary of Transpor-

1 tation shall consult with the freight and passenger railroad
2 carriers, nonprofit employee organizations representing
3 rail workers, nonprofit employee organizations rep-
4 resenting emergency responders, owners or lessors of rail
5 cars used to transport hazardous materials, shippers of
6 hazardous materials, manufacturers of rail tank cars,
7 State Departments of Transportation, public safety offi-
8 cials, and other relevant parties.

9 (d) RECOMMENDATIONS.—The Secretary shall de-
10 velop prioritized recommendations for improving railroad
11 security, including recommendations for—

12 (1) improving the security of rail tunnels, rail
13 bridges, rail switching and car storage areas, other
14 rail infrastructure and facilities, information sys-
15 tems, and other areas identified as posing significant
16 railroad-related risks to public safety and the move-
17 ment of interstate commerce, taking into account
18 the impact that any proposed security measure
19 might have on the provision of railroad service;

20 (2) deploying surveillance equipment;

21 (3) deploying equipment to detect explosives
22 and hazardous chemical, biological, and radioactive
23 substances, and any appropriate countermeasures;

24 (4) installing redundant and backup systems to
25 ensure the continued operation of critical elements

1 of the railroad system in the event of an attack or
2 other incident, including disruption of commercial
3 electric power or communications networks;

4 (5) conducting public outreach campaigns on
5 passenger railroads; and

6 (6) identifying the immediate and long-term
7 costs of measures that may be required to address
8 those risks.

9 (e) REPORT.—

10 (1) CONTENTS.—Not later than 180 days after
11 the date of enactment of this Act, the Secretary
12 shall transmit to the Committee on Transportation
13 and Infrastructure and the Committee on Homeland
14 Security of the House of Representatives and to the
15 Committee on Commerce, Science, and Transpor-
16 tation of the Senate a report containing the security
17 assessment, plan, and prioritized recommendations
18 required by this section, along with an estimate of
19 the cost to implement such recommendations.

20 (2) FORMAT.—The report may be submitted in
21 a classified format if the Secretary determines that
22 such action is necessary.

23 (f) PERIODIC UPDATES.—The Secretary shall update
24 the railroad security assessment, security plan, and
25 prioritized recommendations for improving railroad secu-

1 rity under subsection (a), and the guidance for a railroad
2 worker security training program under section 105, every
3 2 years and submit a report, which may be submitted in
4 both classified and redacted formats, to the Committee on
5 Transportation and Infrastructure and the Committee on
6 Homeland Security of the House of Representatives and
7 to the Committee on Commerce, Science, and Transpor-
8 tation of the Senate not less frequently than April 1 of
9 each even-numbered year.

10 (g) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the Secretary
12 \$10,000,000 for the purpose of carrying out this section.

13 **SEC. 102. FREIGHT AND PASSENGER RAIL SECURITY UP-**
14 **GRADES.**

15 (a) SECURITY IMPROVEMENT GRANTS.—The Sec-
16 retary, in coordination with the Secretary of Transpor-
17 tation, is authorized to make grants to freight and pas-
18 senger railroad carriers, nonprofit employee organizations
19 that represent rail workers, shippers of hazardous mate-
20 rials by rail, owners of rail cars used in the transportation
21 of hazardous materials, manufacturers of rail tank cars,
22 and State and local governments, for costs incurred in the
23 conduct of activities to prevent or respond to acts of ter-
24 rorism or sabotage against railroads, or other railroad se-
25 curity threats, including—

1 (1) perimeter protection systems, including ac-
2 cess control, installation of better lighting, fencing,
3 and barricades at railroad facilities;

4 (2) structural modification or replacement of
5 rail cars transporting hazardous materials to im-
6 prove their resistance to acts of terrorism;

7 (3) technologies for reduction of tank car vul-
8 nerability;

9 (4) security improvements to passenger railroad
10 stations, trains, and infrastructure;

11 (5) tunnel protection systems;

12 (6) evacuation improvements;

13 (7) inspection technologies, including verified
14 visual inspection technologies using hand-held read-
15 ers and discs;

16 (8) security and redundancy for critical commu-
17 nications, computer, and train control systems essen-
18 tial for secure railroad operations or to continue rail-
19 road operations after an attack impacting railroad
20 operations;

21 (9) train tracking and interoperable commu-
22 nications systems;

23 (10) chemical, biological, radiological, or explo-
24 sive detection systems and devices;

25 (11) surveillance equipment;

1 (12) additional police and security officers, in-
2 cluding canine units;

3 (13) accommodation of cargo or passenger
4 screening equipment;

5 (14) employee security awareness, prepared-
6 ness, and response training (including compliance
7 with section 105);

8 (15) public security awareness campaigns;

9 (16) emergency response equipment, including
10 fire suppression and decontamination equipment;
11 and

12 (17) other improvements recommended by the
13 report required by section 101, including infrastruc-
14 ture, facilities, and equipment upgrades.

15 (b) CONDITIONS.—The Secretary shall require recipi-
16 ents of funds for construction under this section and sec-
17 tion 103 of this Act to apply the standards of section
18 24312 of title 49, United States Code, as in effect on Sep-
19 tember 1, 2004, with respect to the construction in the
20 same manner as Amtrak is required to comply with such
21 standards for construction work financed under an agree-
22 ment made under section 24308(a) of such title 49.

23 (c) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to the Secretary
25 \$600,000,000 to carry out the purposes of this section,

1 of which \$100,000,000 shall be used by the Secretary for
2 making grants to Amtrak, in accordance with this section.
3 Amounts appropriated pursuant to this subsection shall
4 remain available until expended.

5 **SEC. 103. FIRE AND LIFE-SAFETY IMPROVEMENTS.**

6 (a) LIFE-SAFETY NEEDS.—There are authorized to
7 be appropriated to Amtrak for the purposes of carrying
8 out this section the following amounts:

9 (1) For the 6 New York tunnels to provide ven-
10 tilation, electrical, and fire safety technology up-
11 grades, emergency communication and lighting sys-
12 tems, and emergency access and egress for pas-
13 sengers—

14 (A) \$100,000,000 for fiscal year 2006;
15 (B) \$100,000,000 for fiscal year 2007;
16 (C) \$100,000,000 for fiscal year 2008;
17 (D) \$100,000,000 for fiscal year 2009;
18 and
19 (E) \$170,000,000 for fiscal year 2010.

20 (2) For the Baltimore & Potomac Tunnel and
21 the Union tunnel, together, to provide adequate
22 drainage, ventilation, communication, lighting, and
23 passenger egress upgrades—

24 (A) \$10,000,000 for fiscal year 2006;
25 (B) \$10,000,000 for fiscal year 2007;

- 1 (C) \$10,000,000 for fiscal year 2008;
 2 (D) \$10,000,000 for fiscal year 2009; and
 3 (E) \$17,000,000 for fiscal year 2010.

4 (3) For the Washington, District of Columbia,
 5 Union Station tunnels to improve ventilation, com-
 6 munication, lighting, and passenger egress up-
 7 grades—

- 8 (A) \$8,000,000 for fiscal year 2006;
 9 (B) \$8,000,000 for fiscal year 2007;
 10 (C) \$8,000,000 for fiscal year 2008;
 11 (D) \$8,000,000 for fiscal year 2009; and
 12 (E) \$8,000,000 for fiscal year 2010.

13 (b) AVAILABILITY OF APPROPRIATED FUNDS.—
 14 Amounts appropriated pursuant to this section shall re-
 15 main available until expended.

16 **SEC. 104. RAIL SECURITY RESEARCH AND DEVELOPMENT**
 17 **PROGRAM.**

18 (a) ESTABLISHMENT OF RESEARCH AND DEVELOP-
 19 MENT PROGRAM.—The Secretary shall carry out a re-
 20 search and development program for the purpose of im-
 21 proving railroad security that may include research and
 22 development projects to—

- 23 (1) reduce the vulnerability of passenger trains,
 24 stations, and equipment to explosives and hazardous
 25 chemical, biological, and radioactive substances;

1 (2) test new emergency response techniques and
2 technologies;

3 (3) develop improved freight technologies, in-
4 cluding—

5 (A) technologies for sealing rail cars;

6 (B) automatic inspection of rail cars; and

7 (C) communication-based train controls;

8 (4) test wayside detectors that can detect tam-
9 pering with railroad equipment;

10 (5) support enhanced security for the transpor-
11 tation of hazardous materials by rail, including—

12 (A) technologies to detect a breach in a
13 tank car and transmit information about the in-
14 tegrity of tank cars to the train crew;

15 (B) research to improve tank car integrity;
16 and

17 (C) techniques to transfer hazardous mate-
18 rials from rail cars that are damaged or other-
19 wise represent an unreasonable risk to human
20 life or public safety; and

21 (6) other projects recommended in the report
22 required by section 101.

23 (b) COORDINATION WITH OTHER RESEARCH INITIA-
24 TIVES.—The Secretary shall ensure that the research and
25 development program authorized by this section is coordi-

1 nated with other research and development initiatives at
2 the Department of Homeland Security, the Department
3 of Transportation, and other Federal agencies.

4 (c) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated to the Secretary
6 \$50,000,000 in each of fiscal years 2006 and 2007 to
7 carry out the purposes of this section. Amounts appro-
8 priated pursuant to this subsection shall remain available
9 until expended.

10 **SEC. 105. RAIL WORKER SECURITY TRAINING PROGRAM.**

11 (a) IN GENERAL.—Not later than 90 days after the
12 date of enactment of this Act, the Secretary, in consulta-
13 tion with appropriate law enforcement, security, and ter-
14 rorism experts, representatives of railroad carriers, and
15 nonprofit employee organizations that represent rail work-
16 ers, shall develop and issue detailed guidance for a rail
17 worker security training program to prepare rail workers
18 for potential threat conditions.

19 (b) PROGRAM ELEMENTS.—The guidance developed
20 under subsection (a) shall require such a program to in-
21 clude, at a minimum, elements that address the following:

22 (1) Determination of the seriousness of any oc-
23 currence.

24 (2) Crew and passenger communication and co-
25 ordination.

1 (3) Appropriate responses to defend oneself.

2 (4) Use of protective devices.

3 (5) Evacuation procedures.

4 (6) Live situational training exercises regarding
5 various threat conditions, including tunnel evacu-
6 ation procedures.

7 (7) Any other subject the Secretary considers
8 appropriate.

9 (c) RAILROAD CARRIER PROGRAMS.—Not later than
10 60 days after the Secretary issues guidance under sub-
11 section (a) in final form, each railroad carrier shall develop
12 a rail worker security training program in accordance with
13 that guidance and submit it to the Secretary for approval.
14 Not later than 60 days after receiving a railroad carrier's
15 program under this subsection, the Secretary shall review
16 the program and approve it or require the railroad carrier
17 to make any revisions the Secretary considers necessary
18 for the program to meet the guidance requirements.

19 (d) TRAINING.—Not later than 1 year after the Sec-
20 retary approves the training program developed by a rail-
21 road carrier under this section, the railroad carrier shall
22 complete the training of all rail workers in accordance with
23 that program.

24 (e) UPDATES.—The Secretary shall update the train-
25 ing guidance issued under subsection (a) from time to

1 time to reflect new or different security threats, and re-
 2 quire railroad carriers to revise their programs accordingly
 3 and provide additional training to their rail workers.

4 **SEC. 106. WHISTLEBLOWER PROTECTION.**

5 (a) IN GENERAL.—Subchapter I of chapter 201 of
 6 title 49, United States Code, is amended by inserting after
 7 section 20115 the following:

8 **“§ 20116. Whistleblower protection for railroad secu-**
 9 **rity matters**

10 “(a) DISCRIMINATION AGAINST EMPLOYEE.—No
 11 railroad carrier engaged in interstate or foreign commerce
 12 may discharge a railroad employee or otherwise discrimi-
 13 nate against a railroad employee because the employee (or
 14 any person acting pursuant to a request of the em-
 15 ployee)—

16 “(1) provided, caused to be provided, or is
 17 about to provide or cause to be provided, to the em-
 18 ployer or the Federal Government information relat-
 19 ing to a perceived threat to security;

20 “(2) provided, caused to be provided, or is
 21 about to provide or cause to be provided, testimony
 22 before Congress or at any Federal or State pro-
 23 ceeding regarding a perceived threat to security;

1 “(3) has assisted or participated, or is about to
2 assist or participate, in any manner in a proceeding
3 or any other action to enhance railroad security; or

4 “(4) refused to violate or assist in the violation
5 of any law, rule, or regulation related to railroad se-
6 curity.

7 “(b) ENFORCEMENT ACTION.—

8 “(1) IN GENERAL.—A person who alleges dis-
9 charge or other discrimination by any person in vio-
10 lation of subsection (a) may seek relief under sub-
11 section (c) by—

12 “(A) filing a complaint with the Secretary
13 of Labor; or

14 “(B) if the Secretary of Labor has not
15 issued a final decision within 180 days of the
16 filing of the complaint and there is no showing
17 that such delay is due to the bad faith of the
18 claimant, bringing an action at law or equity
19 for de novo review in the appropriate district
20 court of the United States, which shall have ju-
21 risdiction over such an action without regard to
22 the amount in controversy.

23 “(2) PROCEDURE.—

24 “(A) IN GENERAL.—An action under para-
25 graph (1)(A) shall be governed under the rules

1 and procedures set forth in section 42121(b) of
2 this title.

3 “(B) EXCEPTION.—Notification made
4 under section 42121(b)(1) of this title, shall be
5 made to the person named in the complaint and
6 to the employer.

7 “(C) BURDENS OF PROOF.—An action
8 brought under paragraph (1)(B) shall be gov-
9 erned by the legal burdens of proof set forth in
10 section 42121(b) this title.

11 “(D) STATUTE OF LIMITATIONS.—An ac-
12 tion under paragraph (1)(A) shall be com-
13 menced not later than 90 days after the date on
14 which the violation occurs.

15 “(c) REMEDIES.—

16 “(1) IN GENERAL.—An employee prevailing in
17 any action under subsection (b)(1) shall be entitled
18 to all relief necessary to make the employee whole.

19 “(2) COMPENSATORY DAMAGES.—Relief for any
20 action under paragraph (1) shall include—

21 “(A) reinstatement with the same seniority
22 status that the employee would have had, but
23 for the discrimination;

24 “(B) the amount of back pay, with inter-
25 est; and

1 “(C) compensation for any special damages
2 sustained as a result of the discrimination, in-
3 cluding litigation costs, expert witness fees, and
4 reasonable attorney fees.

5 “(d) RIGHTS RETAINED BY EMPLOYEE.—Except as
6 provided in subsection (e), nothing in this section shall be
7 deemed to diminish the rights, privileges, or remedies of
8 any employee under any Federal or State law, or under
9 any collective bargaining agreement.

10 “(e) ELECTION OF REMEDIES.—An employee of a
11 railroad carrier may not seek protection under both this
12 section and another provision of law for the same allegedly
13 unlawful act of the railroad carrier.

14 “(f) DISCLOSURE OF IDENTITY.—

15 “(1) IN GENERAL.—Except as provided in para-
16 graph (2), without the written consent of the em-
17 ployee, the Secretary of Labor may not disclose the
18 name of an employee of a railroad carrier who has
19 provided information about an alleged violation of
20 this section.

21 “(2) EXCEPTION.—The Secretary of Labor
22 shall disclose to the Attorney General the name of
23 an employee described in paragraph (1) of this sub-
24 section if the matter is referred to the Attorney Gen-
25 eral for enforcement.”.

1 (b) CONFORMING AMENDMENT.—The table of sec-
 2 tions for chapter 201 of title 49, United States Code, is
 3 amended by inserting after the item relating to section
 4 20115 the following:

“20116. Whistleblower protection for railroad security matters.”.

5 **SEC. 107. PUBLIC OUTREACH.**

6 Not later than 180 days after the date of enactment
 7 of this Act, the Secretary shall develop a national plan
 8 for public outreach and awareness. Such plan shall be de-
 9 signed to increase awareness of measures that the general
 10 public, railroad passengers, and railroad employees can
 11 take to increase railroad system security. Such plan shall
 12 also provide outreach to railroad carriers and their em-
 13 ployees to improve their awareness of available tech-
 14 nologies, ongoing research and development efforts, and
 15 available Federal funding sources to improve railroad se-
 16 curity. Not later than 9 months after the date of enact-
 17 ment of this Act, the Secretary shall implement the plan
 18 developed under this section.

19 **SEC. 108. PASSENGER, BAGGAGE, AND CARGO SCREENING.**

20 The Secretary shall—

21 (1) analyze the cost and feasibility of requiring
 22 security screening for passengers, baggage, and
 23 cargo on passenger trains; and

24 (2) report the results of the study, together
 25 with any recommendations that the Secretary may

1 have for implementing a rail security screening pro-
2 gram to the Committee on Transportation and In-
3 frastructure and the Committee on Homeland Secu-
4 rity of the House of Representatives and to the
5 Committee on Commerce, Science, and Transpor-
6 tation of the Senate not later than 1 year after the
7 date of enactment of this Act.

8 **SEC. 109. EMERGENCY RESPONDER TRAINING STANDARDS.**

9 Not later than 90 days after the date of enactment
10 of this Act, the Secretary of Transportation shall issue
11 training standards for persons responsible for responding
12 to emergency situations occurring during transportation
13 of hazardous materials by rail, in accordance with existing
14 regulations, to ensure their ability to protect nearby per-
15 sons, property, or the environment from the effects of acci-
16 dents involving hazardous materials.

17 **SEC. 110. INFORMATION FOR FIRST RESPONDERS.**

18 (a) IN GENERAL.—The Secretary of Transportation
19 shall provide grants to Operation Respond Institute for
20 the purpose of—

- 21 (1) deploying and expanding the Operation Re-
22 spond Emergency Information System software;
- 23 (2) developing, implementing, and maintaining
24 a railroad infrastructure mapping program that cor-
25 relates railroad right-of-way information with high-

1 way grid maps and overhead imagery of traffic
2 routes, hazardous materials routes, and commuter
3 rail lines; and

4 (3) establishing an alert and messaging capa-
5 bility for use during emergencies involving freight
6 and passenger railroads.

7 (b) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated to the Secretary of
9 Transportation to carry out this section \$2,500,000 for
10 each of fiscal years 2005, 2006, and 2007. Amounts ap-
11 propriated pursuant to this subsection shall remain avail-
12 able until expended.

13 **SEC. 111. TSA PERSONNEL LIMITATIONS.**

14 Any statutory limitation on the number of employees
15 in the Transportation Security Administration, before or
16 after its transfer to the Department of Homeland Secu-
17 rity, does not apply to the extent that any such employees
18 are responsible for implementing the provisions of this
19 title.

20 **SEC. 112. RAIL SAFETY REGULATIONS.**

21 Section 20103(a) of title 49, United States Code, is
22 amended by striking “safety” the first place it appears,
23 and inserting “safety, including security”.

1 **SEC. 113. RAIL POLICE OFFICERS.**

2 Section 28101 of title 49, United States Code, is
 3 amended by striking “the rail carrier” each place it ap-
 4 pears and inserting “any rail carrier”.

5 **SEC. 114. DEFINITIONS.**

6 For purposes of this title—

7 (1) the terms “railroad” and “railroad carrier”
 8 have the meaning given those terms in section
 9 20102 of title 49, United States Code; and

10 (2) the term “Secretary” means the Secretary
 11 of Homeland Security, acting through the Under
 12 Secretary of Homeland Security for Border and
 13 Transportation Security.

14 **TITLE II—ASSISTANCE TO**
 15 **FAMILIES OF PASSENGERS**

16 **SEC. 201. ASSISTANCE BY NATIONAL TRANSPORTATION**
 17 **SAFETY BOARD TO FAMILIES OF PAS-**
 18 **SENGERS INVOLVED IN RAIL PASSENGER AC-**
 19 **CIDENTS.**

20 (a) IN GENERAL.—Subchapter III of chapter 11 of
 21 title 49, United States Code, is amended by adding at the
 22 end the following:

23 **“§ 1138. Assistance to families of passengers involved**
 24 **in rail passenger accidents**

25 “(a) IN GENERAL.—As soon as practicable after
 26 being notified of a rail passenger accident within the

1 United States involving a rail passenger carrier and result-
2 ing in a major loss of life, the Chairman of the National
3 Transportation Safety Board shall—

4 “(1) designate and publicize the name and
5 phone number of a director of family support serv-
6 ices who shall be an employee of the Board and shall
7 be responsible for acting as a point of contact within
8 the Federal Government for the families of pas-
9 sengers involved in the accident and a liaison be-
10 tween the rail passenger carrier and the families;
11 and

12 “(2) designate an independent nonprofit organi-
13 zation, with experience in disasters and posttrauma
14 communication with families, which shall have pri-
15 mary responsibility for coordinating the emotional
16 care and support of the families of passengers in-
17 volved in the accident.

18 “(b) RESPONSIBILITIES OF THE BOARD.—The Board
19 shall have primary Federal responsibility for—

20 “(1) facilitating the recovery and identification
21 of fatally injured passengers involved in an accident
22 described in subsection (a); and

23 “(2) communicating with the families of pas-
24 sengers involved in the accident as to the roles of—

1 “(A) the organization designated for an ac-
2 cident under subsection (a)(2);

3 “(B) Government agencies; and

4 “(C) the rail passenger carrier involved,
5 with respect to the accident and the post-accident
6 activities.

7 “(c) RESPONSIBILITIES OF DESIGNATED ORGANIZA-
8 TION.—The organization designated for an accident under
9 subsection (a)(2) shall have the following responsibilities
10 with respect to the families of passengers involved in the
11 accident:

12 “(1) To provide mental health and counseling
13 services, in coordination with the disaster response
14 team of the rail passenger carrier involved.

15 “(2) To take such actions as may be necessary
16 to provide an environment in which the families may
17 grieve in private.

18 “(3) To meet with the families who have trav-
19 eled to the location of the accident, to contact the
20 families unable to travel to such location, and to
21 contact all affected families periodically thereafter
22 until such time as the organization, in consultation
23 with the director of family support services des-
24 ignated for the accident under subsection (a)(1), de-
25 termines that further assistance is no longer needed.

1 “(4) To arrange a suitable memorial service, in
2 consultation with the families.

3 “(d) PASSENGER LISTS.—

4 “(1) REQUESTS FOR PASSENGER LISTS.—

5 “(A) REQUESTS BY DIRECTOR OF FAMILY
6 SUPPORT SERVICES.—It shall be the responsi-
7 bility of the director of family support services
8 designated for an accident under subsection
9 (a)(1) to request, as soon as practicable, from
10 the rail passenger carrier involved in the acci-
11 dent a list, which is based on the best available
12 information at the time of the request, of the
13 names of the passengers that were aboard the
14 rail passenger carrier’s train involved in the ac-
15 cident. A rail passenger carrier shall use rea-
16 sonable efforts, with respect to its unreserved
17 trains, and passengers not holding reservations
18 on its other trains, to ascertain the names of
19 passengers aboard a train involved in an acci-
20 dent.

21 “(B) REQUESTS BY DESIGNATED ORGANI-
22 ZATION.—The organization designated for an
23 accident under subsection (a)(2) may request
24 from the rail passenger carrier involved in the
25 accident a list described in subparagraph (A).

1 “(2) USE OF INFORMATION.—The director of
2 family support services and the organization may
3 not release to any person information on a list ob-
4 tained under paragraph (1) but may provide infor-
5 mation on the list about a passenger to the family
6 of the passenger to the extent that the director of
7 family support services or the organization considers
8 appropriate.

9 “(e) CONTINUING RESPONSIBILITIES OF THE
10 BOARD.—In the course of its investigation of an accident
11 described in subsection (a), the Board shall, to the max-
12 imum extent practicable, ensure that the families of pas-
13 sengers involved in the accident—

14 “(1) are briefed, prior to any public briefing,
15 about the accident and any other findings from the
16 investigation; and

17 “(2) are individually informed of and allowed to
18 attend any public hearings and meetings of the
19 Board about the accident.

20 “(f) USE OF RAIL PASSENGER CARRIER RE-
21 SOURCES.—To the extent practicable, the organization
22 designated for an accident under subsection (a)(2) shall
23 coordinate its activities with the rail passenger carrier in-
24 volved in the accident to facilitate the reasonable use of
25 the resources of the carrier.

1 “(g) PROHIBITED ACTIONS.—

2 “(1) ACTIONS TO IMPEDE THE BOARD.—No
3 person (including a State or political subdivision)
4 may impede the ability of the Board (including the
5 director of family support services designated for an
6 accident under subsection (a)(1)), or an organization
7 designated for an accident under subsection (a)(2),
8 to carry out its responsibilities under this section or
9 the ability of the families of passengers involved in
10 the accident to have contact with one another.

11 “(2) UNSOLICITED COMMUNICATIONS.—No un-
12 solicited communication concerning a potential ac-
13 tion for personal injury or wrongful death may be
14 made by an attorney (including any associate, agent,
15 employee, or other representative of an attorney) or
16 any potential party to the litigation to an individual
17 (other than an employee of the rail passenger car-
18 rier) injured in the accident, or to a relative of an
19 individual involved in the accident, before the 45th
20 day following the date of the accident.

21 “(3) PROHIBITION ON ACTIONS TO PREVENT
22 MENTAL HEALTH AND COUNSELING SERVICES.—No
23 State or political subdivision may prevent the em-
24 ployees, agents, or volunteers of an organization des-
25 ignated for an accident under subsection (a)(2) from

1 providing mental health and counseling services
2 under subsection (c)(1) in the 30-day period begin-
3 ning on the date of the accident. The director of
4 family support services designated for the accident
5 under subsection (a)(1) may extend such period for
6 not to exceed an additional 30 days if the director
7 determines that the extension is necessary to meet
8 the needs of the families and if State and local au-
9 thorities are notified of the determination.

10 “(h) DEFINITIONS.—In this section, the following
11 definitions apply:

12 “(1) RAIL PASSENGER ACCIDENT.—The term
13 ‘rail passenger accident’ means any rail passenger
14 disaster occurring in the provision of—

15 “(A) interstate intercity rail passenger
16 transportation (as such term is defined in sec-
17 tion 24102); or

18 “(B) interstate or intrastate high-speed
19 rail (as such term is defined in section 26105)
20 transportation,
21 regardless of its cause or suspected cause.

22 “(2) RAIL PASSENGER CARRIER.—The term
23 ‘rail passenger carrier’ means a rail carrier pro-
24 viding—

1 “(A) interstate intercity rail passenger
2 transportation (as such term is defined in sec-
3 tion 24102); or

4 “(B) interstate or intrastate high-speed
5 rail (as such term is defined in section 26105)
6 transportation,

7 except that such term shall not include a tourist,
8 historic, scenic, or excursion rail carrier.

9 “(3) PASSENGER.—The term ‘passenger’ in-
10 cludes—

11 “(A) an employee of a rail passenger car-
12 rier aboard a train;

13 “(B) any other person aboard the train
14 without regard to whether the person paid for
15 the transportation, occupied a seat, or held a
16 reservation for the rail transportation; and

17 “(C) any other person injured or killed in
18 the accident.

19 “(i) LIMITATION ON STATUTORY CONSTRUCTION.—
20 Nothing in this section may be construed as limiting the
21 actions that a rail passenger carrier may take, or the obli-
22 gations that a rail passenger carrier may have, in pro-
23 viding assistance to the families of passengers involved in
24 a rail passenger accident.

1 “(j) RELINQUISHMENT OF INVESTIGATIVE PRI-
2 ORITY.—

3 “(1) GENERAL RULE.—This section (other than
4 subsection (g)) shall not apply to a railroad accident
5 if the Board has relinquished investigative priority
6 under section 1131(a)(2)(B) and the Federal agency
7 to which the Board relinquished investigative pri-
8 ority is willing and able to provide assistance to the
9 victims and families of the passengers involved in
10 the accident.

11 “(2) BOARD ASSISTANCE.—If this section does
12 not apply to a railroad accident because the Board
13 has relinquished investigative priority with respect to
14 the accident, the Board shall assist, to the maximum
15 extent possible, the agency to which the Board has
16 relinquished investigative priority in assisting fami-
17 lies with respect to the accident.”.

18 (b) CONFORMING AMENDMENT.—The table of sec-
19 tions for such chapter is amended by inserting after the
20 item relating to section 1137 the following:

“1138. Assistance to families of passengers involved in rail passenger acci-
dents.”.

1 **SEC. 202. RAIL PASSENGER CARRIER PLANS TO ADDRESS**
2 **NEEDS OF FAMILIES OF PASSENGERS IN-**
3 **VOLVED IN RAIL PASSENGER ACCIDENTS.**

4 (a) IN GENERAL.—Part C of subtitle V of title 49,
5 United States Code, is amended by adding at the end the
6 following new chapter:

7 **“CHAPTER 251—FAMILY ASSISTANCE**

“Sec.

“25101. Plans to address needs of families of passengers involved in rail passenger accidents.

8 **“§ 25101. Plans to address needs of families of pas-**
9 **sengers involved in rail passenger acci-**
10 **dents**

11 “(a) SUBMISSION OF PLANS.—Not later than 180
12 days after the date of the enactment of this section, each
13 rail passenger carrier shall submit to the Secretary of
14 Transportation and the Chairman of the National Trans-
15 portation Safety Board a plan for addressing the needs
16 of the families of passengers involved in any rail passenger
17 accident involving a train of the rail passenger carrier and
18 resulting in a major loss of life.

19 “(b) CONTENTS OF PLANS.—A plan to be submitted
20 by a rail passenger carrier under subsection (a) shall in-
21 clude, at a minimum, the following:

1 “(1) A plan for publicizing a reliable, toll-free
2 telephone number, and for providing staff, to handle
3 calls from the families of the passengers.

4 “(2) A process for notifying the families of the
5 passengers, before providing any public notice of the
6 names of the passengers, either by utilizing the serv-
7 ices of the organization designated for the accident
8 under section 1138(a)(2) of this title or the services
9 of other suitably trained individuals.

10 “(3) An assurance that the notice described in
11 paragraph (2) will be provided to the family of a
12 passenger as soon as the rail passenger carrier has
13 verified that the passenger was aboard the train
14 (whether or not the names of all of the passengers
15 have been verified) and, to the extent practicable, in
16 person.

17 “(4) An assurance that the rail passenger car-
18 rier will provide to the director of family support
19 services designated for the accident under section
20 1138(a)(1) of this title, and to the organization des-
21 ignated for the accident under section 1138(a)(2) of
22 this title, immediately upon request, a list (which is
23 based on the best available information at the time
24 of the request) of the names of the passengers
25 aboard the train (whether or not such names have

1 been verified), and will periodically update the list.
2 The plan shall include a procedure, with respect to
3 unreserved trains and passengers not holding res-
4 ervations on other trains, for the rail passenger car-
5 rier to use reasonable efforts to ascertain the names
6 of passengers aboard a train involved in an accident.

7 “(5) An assurance that the family of each pas-
8 senger will be consulted about the disposition of all
9 remains and personal effects of the passenger within
10 the control of the rail passenger carrier.

11 “(6) An assurance that if requested by the fam-
12 ily of a passenger, any possession of the passenger
13 within the control of the rail passenger carrier (re-
14 gardless of its condition) will be returned to the fam-
15 ily unless the possession is needed for the accident
16 investigation or any criminal investigation.

17 “(7) An assurance that any unclaimed posses-
18 sion of a passenger within the control of the rail
19 passenger carrier will be retained by the rail pas-
20 senger carrier for at least 18 months.

21 “(8) An assurance that the family of each pas-
22 senger or other person killed in the accident will be
23 consulted about construction by the rail passenger
24 carrier of any monument to the passengers, includ-
25 ing any inscription on the monument.

1 “(9) An assurance that the treatment of the
2 families of nonrevenue passengers will be the same
3 as the treatment of the families of revenue pas-
4 sengers.

5 “(10) An assurance that the rail passenger car-
6 rier will work with any organization designated
7 under section 1138(a)(2) of this title on an ongoing
8 basis to ensure that families of passengers receive an
9 appropriate level of services and assistance following
10 each accident.

11 “(11) An assurance that the rail passenger car-
12 rier will provide reasonable compensation to any or-
13 ganization designated under section 1138(a)(2) of
14 this title for services provided by the organization.

15 “(12) An assurance that the rail passenger car-
16 rier will assist the family of a passenger in traveling
17 to the location of the accident and provide for the
18 physical care of the family while the family is stay-
19 ing at such location.

20 “(13) An assurance that the rail passenger car-
21 rier will commit sufficient resources to carry out the
22 plan.

23 “(14) An assurance that the rail passenger car-
24 rier will provide adequate training to the employees

1 and agents of the carrier to meet the needs of sur-
2 vivors and family members following an accident.

3 “(15) An assurance that, upon request of the
4 family of a passenger, the rail passenger carrier will
5 inform the family of whether the passenger’s name
6 appeared on any preliminary passenger manifest for
7 the train involved in the accident.

8 “(c) LIMITATION ON LIABILITY.—A rail passenger
9 carrier shall not be liable for damages in any action
10 brought in a Federal or State court arising out of the per-
11 formance of the rail passenger carrier in preparing or pro-
12 viding a passenger list, or in providing information con-
13 cerning a train reservation, pursuant to a plan submitted
14 by the rail passenger carrier under subsection (b), unless
15 such liability was caused by conduct of the rail passenger
16 carrier which was grossly negligent or which constituted
17 intentional misconduct.

18 “(d) DEFINITIONS.—In this section—

19 “(1) the terms ‘rail passenger accident’ and
20 ‘rail passenger carrier’ have the meanings such
21 terms have in section 1138 of this title; and

22 “(2) the term ‘passenger’ means a person
23 aboard a rail passenger carrier’s train that is in-
24 volved in a rail passenger accident.

1 “(e) LIMITATION ON STATUTORY CONSTRUCTION.—
 2 Nothing in this section may be construed as limiting the
 3 actions that a rail passenger carrier may take, or the obli-
 4 gations that a rail passenger carrier may have, in pro-
 5 viding assistance to the families of passengers involved in
 6 a rail passenger accident.”.

7 (b) CONFORMING AMENDMENT.—The table of chap-
 8 ters for subtitle V of title 49, United States Code, is
 9 amended by adding after the item relating to chapter 249
 10 the following new item:

“251. FAMILY ASSISTANCE25101”.

11 **SEC. 203. ESTABLISHMENT OF TASK FORCE.**

12 (a) ESTABLISHMENT.—Not later than 180 days after
 13 the date of enactment of this Act, the Secretary of Trans-
 14 portation, in coordination with the National Transpor-
 15 tation Safety Board, organizations potentially designated
 16 under section 1138(a)(2) of title 49, United States Code,
 17 rail passenger carriers, and families which have been in-
 18 volved in rail accidents, shall establish a task force con-
 19 sisting of representatives of such entities and families, rep-
 20 resentatives of passenger rail carrier employees, and rep-
 21 resentatives of such other entities as the Secretary con-
 22 siders appropriate.

23 (b) MODEL PLAN AND RECOMMENDATIONS.—The
 24 task force established pursuant to subsection (a) shall de-
 25 velop—

1 (1) a model plan to assist passenger rail car-
2 riers in responding to passenger rail accidents;

3 (2) recommendations on methods to improve
4 the timeliness of the notification provided by pas-
5 senger rail carriers to the families of passengers in-
6 volved in a passenger rail accident;

7 (3) recommendations on methods to ensure that
8 the families of passengers involved in a passenger
9 rail accident who are not citizens of the United
10 States receive appropriate assistance; and

11 (4) recommendations on methods to ensure that
12 emergency services personnel have as immediate and
13 accurate a count of the number of passengers on-
14 board the train as possible.

15 (c) REPORT.—Not later than 1 year after the date
16 of the enactment of this Act, the Secretary shall transmit
17 to the Committee on Transportation and Infrastructure
18 of the House of Representatives and the Committee on
19 Commerce, Science, and Transportation of the Senate a
20 report containing the model plan and recommendations
21 developed by the task force under subsection (b).

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